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Food and Agricultural Import Regulations and Standards

Food Hygiene Law

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Report Highlights:

This is an UNOFFICIAL translation of the People's Republic of China *Food Hygiene Law* and should be used as a guide only. Exporters should carefully discuss regulations and their application with Chinese importers to ensure that their interpretation of the regulations is accurate.

Includes PSD changes: No
Includes Trade Matrix: No
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This report was prepared by the Office of Agricultural Affairs of the USDA/Foreign Agricultural Service in Beijing, People's Republic of China for U.S. exporters of domestic food and agricultural products. While every possible care was taken in the preparation of this report, information provided may not be completely accurate either because policies have changed since its preparation, or because clear and consistent information about these policies was not available. It is highly recommended that U.S. exporters verify the full set of import requirements with their foreign customers, who are normally best equipped to research such matters with local authorities, before any goods are shipped. FINAL IMPORT APPROVAL OF ANY PRODUCT IS SUBJECT TO THE IMPORTING COUNTRY'S RULES AND REGULATIONS AS INTERPRETED BY BORDER OFFICIALS AT THE TIME OF PRODUCT ENTRY.

Summary

This law governs hygiene for all food, food additives, food containers, packaging materials, instruments, equipment, detergents and disinfectants, as well as food production and marketing operations, locations, and facilities. Articles 30, 31, and 55 relate directly to the import or export hygiene of any food related item. The Public Health Administration of the State Council is the statutory authority responsible for this law.

Food Hygiene Law

Chapter One: General Provisions

Article 1: This Law is formulated to ensure food hygiene, guard against food contamination, prevent damaging elements from harming the human body, and safeguard and enhance people's health.

Article 2: The State implements the Food Hygiene Supervisory System.

Article 3: The Public Health Administration of the State Council shall be responsible for the national supervision and administration of food hygiene. Other related departments of the State Council shall be responsible for food hygiene administration within the limits of their respective offices.

Article 4: All entities engaged in the production and marketing of food within the territory of the People's Republic of China shall abide by this Law. This Law shall apply to all foods, food additives, food containers, packaging materials, food tools, equipment, detergents, and disinfectants. Also, this Law shall apply to the location, related facilities, and environment of food processing and marketing operations.

Article 5: The State encourages social organizations and individuals to exercise social supervision and protection over food hygiene. Any entity or individual has the right to inform against any act or action or accuse anyone of acting in violation of this Law.

Chapter Two: Food Hygiene

Article 6: Food shall be nontoxic and harmless. It shall conform to the due nutritional requirements, and have the corresponding sensory properties in color, flavor, and taste.

Article 7: Staple food and non-staple foodstuffs, especially for infants and children, shall conform to the nutritional and hygienic standards instituted by the Public Health Administration of the State Council.

Article 8: Food production and marketing operations shall meet the following hygienic requirements:

- (1) The indoor and outdoor environment shall be kept clean and tidy and effective measures shall be adopted to eliminate flies, rats, cockroaches, and other harmful insects as well as the breeding conditions for these pests. Food shall be kept a prescribed distance away from any places where poisonous or harmful substances remain.
- (2) Food production and marketing operations shall have adequate facilities to treat raw materials, as well as process, package, and store varieties and quantities of food products.
- (3) There shall be sufficient facilities for disinfection, washing, locker rooms, lavatories, sewage discharge, garbage disposal, lighting, ventilation, dust prevention, fly prevention, rat prevention, and preservation from food decay.
- (4) Equipment layout and processing design shall be rational, so as to prevent cross-contamination from raw materials, products, food to be processed, and ready-to-eat food. Food shall not be exposed to poisonous or unsanitary conditions.
- (5) Tableware, drinking utensils and food containers shall be cleaned and disinfected before use. Cooking utensils and other utensils shall be washed and kept clean after use.
- (6) Conditions for storing, transporting, loading and unloading food containers, packaging materials, and other tools or equipment shall be kept safe, clean, and harmless; to prevent food contamination.
- (7) Ready-to-eat food shall be in small packages with non-toxic and clean packaging materials.
- (8) Personnel shall maintain personal hygiene; wash hands and wear clean work clothes and caps during food production or at the time of sale. Personnel must use serving utensils when selling ready-to-eat food.
- (9) Water for food production shall comply with the state-specified hygiene standards for urban and rural drinking water.
- (10) Any detergents and disinfectants to be used shall be safe and harmless to the human body.

The hygienic requirements for street peddlers and urban/rural fair traders shall be stipulated by the Standing Committee of the People's Congress at the provincial, autonomous region, or municipal level according to this Law.

Article 9: Production and marketing of the following foods are forbidden:

- (1) Those that are putrid, rancid, moldy, worm-eaten or dirty; or mixed with foreign matter; or abnormal in sensory properties so as to be possibly detrimental to human health.
- (2) Those that contain toxic or harmful substances, or those that are contaminated by toxic or harmful substances so as to be possibly detrimental to human health.
- (3) Those that contain pathogenic parasites or microorganisms, or whose content of microbial toxin exceeds the state-specified standard.
- (4) Meats and meat products that have not been inspected by a veterinarian or are substandard after inspection.
- (5) Poultry, livestock, aquatic, or other animals that have died due to illness, poison, or an unknown cause; and any by-products from these animals.
- (6) Those that are contaminated by unsanitary or damaged containers or packaging materials, or by unclean methods of transport.
- (7) Those that are adulterated or counterfeited, thus affecting the food nutrition and hygiene.
- (8) Those that are processed with non-food materials or have added non-food chemical substances; or those with non-food products used as foods.
- (9) Those that have expired shelf life.
- (10) Those that are especially forbidden from sale by the Public Health Administration of the State Council

or by the provincial, autonomous region, or municipal people's government due to special circumstances for preventing diseases, etc.

- (11) Those that contain such additives used without approval from the Public Health Administration of the State Council, or those that contain pesticide residues in excess of the state-specified allowance.
- (12) Other foods that fail to meet the food hygiene standards and requirements.

Article 10: Medications shall not be added to food other than those that are both a traditional food and a medicine. Such medications can be used as raw materials, seasoning or nutritional enhancement.

Chapter Three: Hygiene of Food Additives

Article 11: Production, marketing, or other use of food additives shall conform to the stipulations in hygiene standards and hygienic administrative procedures for the use of food additives. Those food additives that fail to meet the hygiene standards and hygienic administrative procedures shall not be used.

Chapter Four: Hygiene of Food Containers, Packaging Materials, Food Tools and Equipment

Article 12: Food containers, packaging materials, food tools and equipment shall conform to the stipulations in hygiene standards and hygienic administrative procedures.

Article 13: Manufacturers of food containers, packaging materials, food tools and equipment shall adopt raw materials that can meet hygiene requirements. These products shall be easy to clean and disinfect.

Chapter Five: Standards and Administrative Procedures for Food Hygiene

Article 14: State hygiene standards, hygienic administrative procedures, and inspection rules for food, food additives, food containers, packaging materials, food tools and equipment, detergents and disinfectants used to clean food, and also the tolerance level for food pollutants and radioactive substances shall all be enacted and circulated by the Public Health Administration of the State Council.

Article 15: Provincial or autonomous region, and municipal governments may institute local hygiene standards for foods that are not covered by state hygiene standards. These local hygiene standards shall be submitted to the Public Health Administration of the State Council.

Article 16: Stipulated hygiene and quality standards for food additives are subject to examination and approval by the Public Health Administration of the State Council. The safety evaluation of agricultural chemicals; like pesticides, fertilizer, etc., shall be subject to examination and approval by the Public Health Administration of the State Council. The veterinary hygiene inspection rules for slaughtering livestock and poultry shall be established by the relevant administration of the State Council together with the Public Health Administration of the State Council.

Chapter Six: Food Hygiene Administration

Article 17: The Food Production and Marketing Administration departments of the government, at all levels, shall strengthen its enforcement over food hygiene and supervise the implementation of this Law. The government, at all levels, shall encourage and support improvements in food processing as well as promote

enhancing food hygiene quality.

Article 18: Food production and marketing enterprises shall improve their food hygiene administration system and designate full-time or part-time food hygiene controllers to strengthen the inspection of foods in production and marketing operations.

Article 19: The site selection and design of a project for a new building, extension, or renovation of a food production or marketing enterprise shall conform to the hygiene requirements. The Public Health Administration shall take part in the design examination and the project commissioning.

Article 20: Production and marketing enterprises shall submit the necessary data regarding hygiene evaluation and nutritional evaluation for food that will be produced using a new food ingredient or for any new variety of food additive before the product enters production. Production and marketing enterprises shall submit the necessary data regarding hygiene evaluation for food containers and packaging materials that are to be produced using new materials or for new varieties of food tools and equipment. Samples of the new items shall be provided along with the examination and approval procedures. On the basis of the stipulated standards for food hygiene, the items shall be reviewed before the new items enter production.

Article 21: Approved packaged foods and food additives shall list the product name, origin, factory name, production date, lot number or code, specifications, formula or ingredients, shelf life, directions, etc. on the label or in the instruction leaflet for each product. There shall be no embellished or falsified information in the product instruction leaflets for foods or food additives. Food labels shall be clear and legible. Foods sold in China shall have labels in Chinese.

Article 22: The products and instructional leaflets for foods with specific health care functions are subject to examination and approval by the Public Health Administration of the State Council. The hygiene standards and the production and marketing administrative procedures shall be instituted by the Public Health Administration of the State Council.

Article 23: Food with specific health care functions shall not be harmful to human health. Product instruction leaflets shall have factual information. The functions and ingredients of a product shall agree with those stated in the instruction leaflet without any falsification.

Article 24: Food, food additives, food containers and packaging materials, and other utensils shall not be delivered ex-factory or sold until having passed inspection according to the hygiene standards and the hygienic administrative procedures.

Article 25: Food production and marketing enterprises shall request the inspection certificates or laboratory test reports, conducted in accordance with government stipulations, for foods and raw materials that are to be purchased. Sellers shall guarantee to provide these inspection certificates or laboratory test reports. The scope and kind of these required certificates and reports shall be explained by the Public Health Administrations of the provincial, autonomous region, and municipal governments.

Article 26: Food production and marketing personnel shall receive a health exam every year. New employees and temporary workers shall also receive a health exam. Personnel shall not fill the posts until a health certificate is issued. Personnel who suffer from digestive tract infectious diseases; like dysentery, typhoid fever,

viral hepatitis, etc. (including pathogenic bacteria), active tuberculosis, pyogenic or escudative dermatosis, and other diseases harmful to food hygiene, shall not take posts in direct contact with ready-to-eat food.

Article 27: Food production and marketing enterprises (including street food peddlers) shall first obtain a hygiene permit issued by the Public Health Administration and then apply for registration with the Administration for Industry and Commerce. Those who have not obtained the hygiene permit shall not engage in food production and marketing operations. Food production and marketing enterprises (including street food peddlers) shall not falsify, alter, or lend the hygiene permit. The issuing and administrative procedures of the hygiene permit shall be established by the Public Health Administration of the provincial, autonomous region, and municipal governments.

Article 28: Sponsors of different kinds of food markets shall be responsible for food hygiene administration inside the market, and establish necessary public sanitary facilities inside the market so as to maintain proper environmental sanitation.

Article 29: The Administration for Industry and Commerce shall be responsible for food hygiene administration in urban and rural trade fairs while the Public Health Administration shall be responsible for the supervision and inspection work of food hygiene.

Article 30: Imported food, food additives, food containers, packaging materials, food tools and equipment shall all conform to the stipulations of the hygiene standards and hygiene administrative procedures of the State. Hygiene supervision and inspection of imported products shall be made by the Port Importation Supervisor and Inspection Body for Food Hygiene. Importation shall not be permitted until the above products have passed inspection. The customs office shall release such products upon presentation of the inspection certificate.

When applying for inspection, the importer shall provide necessary data and the inspection reports regarding pesticides, additives, fumigants, etc. used in the country (or region) of export. The above imported products shall be inspected according to the state hygiene standards. If no such state hygiene standard exists, the importer shall provide the hygiene evaluation data issued by the public health department or organization in the country (or region) of export. This evaluation data shall be submitted to the Public Health Administration of the State Council for approval after examination and inspection by the Port Importation Supervisor and Inspection Body for Food Hygiene.

Article 31: The state import/export commodities inspection authorities shall be responsible for hygiene supervision and inspection of exported food. Customs shall release such food upon presentation of the inspection certificate issued by the state import/export commodities inspection authorities.

Chapter Seven: Supervision Over Food Hygiene

Article 32: The Public Health Administration of the government at or above the county-level shall exercise its supervisory duties for food hygiene within its jurisdiction. The food hygiene supervisory bodies established by the appropriate Railways and Communications Administrations shall exercise the food hygiene supervisory duties set in place by the Public Health Administration of the State Council together with the related departments of the State Council.

Article 33: The food hygiene supervisory duties are:

- (1) Perform the supervision, testing, inspection and technical guidance for food hygiene.
- (2) Assist the training of food production and marketing personnel, and supervise their health examination.
- (3) Publicize food hygiene, nutritional knowledge, conduct food hygiene evaluation, and publish the food hygiene situation.
- (4) Participate in hygiene examination for site selection and design of projects for new-buildings, extensions, and renovations of food production or marketing enterprises; and take part in project commissioning.
- (5) Investigate food poisoning and food contamination cases, and adopt control mechanisms.
- (6) Tour, supervise, and examine any acts in violation of this Law.
- (7) Investigate and determine the responsibility for any act in violation of this Law, and issue a penalty in accordance with this Law.
- (8) Supervise other food hygiene matters.

Article 34: Food hygiene supervisors shall be appointed by the Public Health Administration of the government at or above the county-level. The office shall be held by qualified professionals. The Public Health Administration at the same level shall issue an appointment certificate to every food hygiene supervisor. The appropriate Railways and Communications Administrations shall issue an appointment certificate to every food hygiene supervisor under their leadership.

Article 35: Food hygiene supervisors shall carry out the tasks assigned by their respective Public Health Administration. Food hygiene supervisors shall enforce this Law without bias and be devoted to their duties without using their functions and powers to seek personal gain. In order to understand the circumstances, when carrying out their tasks, food hygiene supervisors may ask for necessary data from food production and marketing enterprises. Supervisors may enter the production and marketing operations for inspection and sampling. The food production and marketing enterprises shall not refuse or withhold requests for information. Food hygiene supervisors shall be responsible for maintaining the confidentiality of technical data provided by the food production and marketing enterprises.

Article 36: The Public Health Administration of the State Council and the provincial, autonomous region, and municipal government may select qualified organizations as food hygiene inspection units, according to need, to conduct food hygiene inspections and to issue inspection reports.

Article 37: The Public Health Administration of the government, at or above the county level, may adopt the following temporary control measures against food poisoning accidents caused or possibly caused by food production and marketing enterprises:

- (1) Seal the foods and the raw materials that caused or possibly caused the food poisoning.
- (2) Seal the contaminated food tools and utensils, and order these tools and utensils cleaned and disinfected.

After further inspection, contaminated foods shall be destroyed and uncontaminated foods shall be unsealed.

Article 38: After rescue measures have been taken, the unit where the food poisoning occurs and the organization to receive patients for treatment shall report the accident to the local Public Health Administration according to relevant state stipulations. The Public Health Administration, at or above the county level, shall conduct a timely investigation as well as adopt effective control measures as soon as the above report is received.

Chapter Eight: Legal Liabilities

Article 39: Production or marketing operations that produce or distribute foods that fail to meet hygiene standards in violation of the provisions of this Law and thus cause a food poisoning accident or any other food borne disease shall be stopped and such foods be destroyed. Additionally, all gains from violating this Law shall be confiscated, and a fine of more than the amount of such gains up to but not exceeding five times the amount may be imposed on the violator. For a violation of this Law where no gains occur, a fine of more than one thousand yuan up to but not exceeding fifty thousand yuan may be imposed (1 USD equals 8.265 yuan).

In cases of producing or distributing foods that fail to meet hygiene standards in violation of the provisions of this Law and thus cause a serious food poisoning accident or any other serious food borne diseases to the serious detriment of human health, or in the case of adulterating foods with toxic or harmful non-food materials in the course of production or marketing operations; a criminal liability lawsuit shall be investigated in accordance with the law.

The hygiene permit shall be revoked if one of the above acts should occur.

Article 40: Any illegal food production and marketing operations engaged in activities without obtaining the hygiene permit or by forging the hygiene permit shall be banned, and the illegal gains shall be confiscated. Additionally, a fine of more than the amount of such gains up to but not exceeding five times the amount may be imposed on the violator. For violations that have no illegal gains, a fine of more than five hundred yuan but not exceeding thirty thousand yuan may be imposed. Should the hygiene permit be altered or lent, this hygiene permit shall be confiscated along with the illegal gains; and, moreover, a fine of more than the amount of the illegal gains but not exceeding three times the amount may be imposed on the violator. For a violator who obtains no illegal gains, a fine of more than five hundred yuan but not exceeding ten thousand yuan may be imposed.

Article 41: In the course of food production and marketing, any act in violation of this Law that fails to meet hygiene requirements shall be corrected. Additionally, a disciplinary warning shall be given and a fine up to but not exceeding five thousand yuan may be imposed upon the violator. Should such corrections be refused or should the case be serious, the hygiene permit shall be revoked.

Article 42: Should any forbidden foods be produced or distributed in violation of the provisions of this Law; such production or marketing operation shall be stopped and the sold foods be re-called through an announcement for immediate destruction. The illegal gains shall be confiscated and a fine of more than the amount of such gains or up to but not exceeding five times the amount may be imposed on the violator. For a violator who obtains no illegal gains, a fine of more than one thousand yuan up to but not exceeding fifty thousand yuan may be imposed. Should the case be serious, the hygiene permit shall be revoked.

Article 43: In the case of producing or marketing staple food and non-staple foodstuffs, especially for infants and children, that fail to meet the nutritional and hygiene standards in violation of the provisions of this Law, such production or marketing operation shall be stopped and the sold foods be re-called through an announcement for immediate destruction. The illegal gains shall be confiscated, and a fine of more than the amount of such gains up to but not exceeding five times the amount may be imposed on the violator. For a violator who obtains no illegal gains, a fine of more than one thousand yuan up to but not exceeding fifty thousand yuan may be imposed. Should the case be serious, the hygiene permit shall be revoked.

Article 44: In cases of producing or distributing food additives, food containers, packaging materials, food tools, equipment, detergents and disinfectants that fail to meet stipulations in the hygiene standards and hygiene administration procedures in violation of the provisions of this Law; such a production or marketing operation shall be stopped and the illegal gains be confiscated. Additionally, a fine of more than the amount of such gains up to but not exceeding three times the amount may be imposed on the violator. For a violator who obtains no illegal gains, a fine up to but not exceeding five thousand yuan may be imposed.

Article 45: In cases of producing or distributing food with specific health care functions without examination and approval from the Public Health Administration of the State Council, or if an instruction leaflet contains false information in violation of the provisions of this law; such a production or marketing operation shall be stopped and the illegal gains be confiscated. Additionally, a fine of more than the amount of such gains up to but not exceeding five times the amount may be imposed on the violator. For a violator who obtains no illegal gains, a fine of more than one thousand yuan up to but not exceeding fifty thousand yuan may be imposed. Should the case be serious, the hygiene permit shall be revoked.

Article 46: In cases where the production date, shelf life and other prescribed items are not indicated or are falsely indicated on the label or in the instruction leaflet of the packaged food or food additive in violation of the provisions of this Law, or in case there is no such label in Chinese as stipulated by this Law; such a default shall be ordered to be corrected and a fine of more than five hundred yuan up to but not exceeding ten thousand yuan may be imposed.

Article 47: If, in violation of the provisions of this Law, the food production and marketing personnel should fill their posts without obtaining their health certificates, or if those food production and marketing employees, who suffer from such diseases where it is forbidden to be in direct contact with ready-to-eat food, and are still not transferred away; such acts shall be corrected and a fine not to exceed five thousand yuan shall be imposed on the breaching organization.

Article 48: Those who have caused a food poisoning accident or any other food borne disease in violation of the provisions of this Law, or those who have brought any harm or damage due to their acts in violation of this Law, shall bear civil compensation liabilities according to law.

Article 49: The punishments specified in this Law shall be decided upon by the Public Health Administration of the government at or above the county-level. Other bodies that are specified by this Law to exercise their food hygiene supervisory power shall make decisions upon punishments within the limits of their duties in accordance with the provisions of this Law.

Article 50: A person or an organization concerned, who disagrees with a punishment, may apply for reconsideration to the next higher level governing body. The person or organization concerned may also directly file a suit with a people's court within 15 days from receiving notice of the punishment.

The governing body responsible for reconsideration shall make a decision within 15 days from receiving the application for reconsideration. If the person or organization concerned refuses to accept the decision made after such a reconsideration, the person or organization may file suit with a people's court within 15 days from receiving the reconsideration decision.

In case the person or organization concerned fails to apply for reconsideration or to file a suit with a people's

court or to fulfill the punishment decision within the prescribed time limit; the body that made the administrative punishment decision may apply to the relevant people's court for enforcement.

Article 51: If the Public Health Administration should issue a hygiene permit to an unqualified production or marketing operation in violation of the provisions of this Law, the person in charge shall be given disciplinary sanction. Where the act constitutes a crime, like bribery, criminal liability shall be investigated in accordance with the law.

Article 52: Should any food hygiene supervisor abuse the power of office, be negligent in duties, practice favoritism or other irregularities, or bring about a grave accident; criminal liability shall be investigated in accordance with the law provided that such an act has constituted a crime, or a disciplinary sanction shall be given in case such act does not constitute a crime.

Article 53: Where a food hygiene supervisor is hindered from performing his duties according to the law by violence or menace, criminal liability shall be investigated in accordance with the law. Where a food hygiene supervisor is stopped or hindered from performing his duties according to the law without using violence or menace, a punishment shall be given by the public security organ in accordance with the Punishment Regulation on Public Order Control.

Chapter Nine: Supplementary Provisions

Article 54: Definitions of the following terms in this Law:

Food: The finished product or raw material that is consumed by people. It may also refer to a product or raw material that is traditionally both a food and a medicine except those that are used for medical treatment.

Food additives: Synthetic chemicals or natural materials that are added to food for improving quality, color, flavor, and taste as well as for the needs of preservation from decay and processing technology.

Nutritive enhancement: Natural or synthetic food additives that belong to the scope of natural nutrients and that are added to food for enhancing nutritional content.

Food containers and packaging materials: Products made of paper, bamboo, wood, metals, enamel, pottery, porcelain, plastic, rubber, natural fiber, synthetic fiber, glass, and food container coatings for packaging and containing food.

Food tools and equipment: Food machinery, pipelines, conveyers, containers, utensils, and tableware that are used in the course of food production and marketing operations.

Food production and marketing operation: All food production and marketing activities, including production, collection, purchase, processing, storage, transportation, display, supply and sales (excluding plantation and breeding).

Food producers and distributors: All units and individuals engaged in food production and operation, including employee cafeterias and street food peddlers.

Article 55: The management procedures on export foodstuffs shall be separately instituted by the state import and export commodities inspection authorities together with the Public Health Administration of the State Council and the related administrative department.

Article 56: The food hygiene administrative procedures on military food stuffs and self-supply foodstuffs shall be instituted by the Central Military Committee according to this Law.

Article 57: The present Law is implemented on the date of publication and the “Food Hygiene Law of the People’s Republic of China (For Trial Implementation)” is simultaneously annulled.